

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7292

BILL NUMBER: SB 301

NOTE PREPARED: Jan 6, 2009

BILL AMENDED:

SUBJECT: Medicaid Transfer of Assets.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill specifies that the Office of Medicaid Policy and Planning, in determining eligibility, may not consider a total of \$1,200 per year in contributions by an individual to a family member or nonprofit organization as an improper transfer.

The bill also prohibits an individual serving a Medicaid transfer of property penalty from counting the cost of specified services as part of the individual's spend-down to receive other Medicaid services.

Effective Date: July 1, 2009.

Explanation of State Expenditures: This bill would require FSSA to amend rules regarding Medicaid penalties for the improper transfer of assets to qualify for medical assistance. Rule-making activities are administrative in nature, and the FSSA should be able to accomplish the required task within its existing level of resources.

This bill would limit an individual to \$1,200 per year in total contributions to charitable organizations and to family members during the applicable look-back period for determining Medicaid eligibility for nursing facility level of care. Contributions or gifts above the defined \$1,200 annually would qualify as improper asset transfers subject to the imposition of a penalty period. The fiscal impact of this provision would depend on the number of individuals that might qualify for Medicaid benefits sooner as a result of contributions or gifts made to family members or charitable institutions.

The bill also specifies that if a Medicaid applicant has been determined to have made an improper transfer of assets and is serving a penalty period, the expenditures the applicant incurs for nursing facility level of

care services may not be applied to the applicant's spend-down requirement necessary to qualify the applicant for the payment of other Medicaid-reimbursed services, equipment, or supplies. The savings associated with this provision would depend on the number of applicants serving a penalty period and the amount of Medicaid expenditures that otherwise would be reimbursed for these applicants as a result of meeting spend-down requirements.

Background Information: State Medicaid programs are required to review the assets of Medicaid applicants for a period of time prior to application for medical assistance. This period is known as the look-back period. A financial review looks for transfers from personal assets made during the look-back period that appear to have been made for the purpose of obtaining Medicaid eligibility. Transfers made before the look-back period are not reviewed. The federal Deficit Reduction Act of 2005 lengthened the required look-back period from 36 months to 60 months for all income and assets disposed of by an individual. The increased look-back period applies to asset transfers that occurred after the date of enactment of the federal legislation; February 8, 2006. If a Medicaid applicant is found to have made an improper transfer of assets during the look-back period, a penalty period of Medicaid ineligibility for nursing home level of care is imposed.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Office of Medicaid Policy and Planning, Family and Social Services Administration.

Local Agencies Affected:

Information Sources: *Deficit Reduction Act of 2005, Summary of Medicaid/Medicare/Health Provisions*, updated August 6, 2006, National Conference of State Legislatures; Minutes of the Select Joint Commission on Medicaid Oversight, October 22, 2008.

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